

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

AMERICO MONCADA,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. L-09-134
	§	
MICHAEL J. SCOTT, PC,	§	
	§	
Defendant.	§	

MEMORANDUM AND ORDER


Plaintiff has filed Defendant's April 1, 2010, offer of judgment, and a notice of Plaintiff's acceptance. (Dkt. Nos. 8, 8-1.) Defendant's offer proposes an agreed judgment of \$1,500 "plus reasonable attorneys fees and taxable costs accrued through and including [April 11, 2010], such fees and costs to be determined by agreement of the parties and if the parties cannot agree, by the Court upon motion by Plaintiff." (Dkt. 8-1 at 3.)

Under Rule 68, Fed. R. Civ. P., a plaintiff can accept an offer of judgment by serving a notice of acceptance on the defendant within 14 days of the offer. Either party may then "file the offer and notice of acceptance, plus proof of service." Rule 68, Fed. R. Civ. P. Plaintiff's filing does not contain proof of service. However, that filing prompted the Court's Electronic Filing System to send Defendant an electronic notice that constitutes effective service. See Local Rule 5.1;

Rule 5(b)(2)(E), Fed. R. Civ. P. (service by electronic means is effective if recipient has consented in writing.)¹ Rule 68's proof-of-service requirement has therefore been satisfied.

While the Rule states the Clerk must then enter judgment, the Court deems it preferable for the parties to be involved. The parties are now DIRECTED to confer forthwith regarding how they wish to proceed at this point and either submit closing documents or advise the Court of the status of this case no later than April 20, 2010.

DONE at Laredo, TX, this 6th day of April, 2010.


George P. Kazen
Senior United States District Judge

¹ An ECF user must sign a registration form stating that he "consent[s] to electronic service of documents and notices through the court's Electronic Filing System and waive[s] service by other means." See Lored v. Barnart, 210 Fed. App'x 417, 419 n.2 (5th Cir., Dec. 18, 2006) (unpublished) (dictum).